United Nations A/HRC/37/NGO/143

General Assembly

Distr.: General
14 February 2018

English only

Human Rights Council
Thirty-seventh session
26 February-23 March 2018
Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination, the Arab Lawyers Union, the Arab Organization for Human Rights, International-Lawyers.Org, IUS PRIMI VIRI International Association and the Union of Arab Jurists, non-governmental organizations in special consultative status, and International Educational Development, Inc. and the World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-02303(E)
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Obstruction of Human Rights: United States of America Recognition of Jerusalem as Capital of Israel*

The status of Jerusalem has been a perennially sensitive issue in the context of the question of occupied Palestinian territories and the Middle East conflicts. The decision by the incumbent United States (US) government to relocate the US embassy from Tel Aviv to Jerusalem and thereby to recognize Jerusalem as Israel's capital on 6 December 2017 is inconsistent with international law, imperils any just and sustainable solution to the Palestine question, and poses a grave threat to peace, security, and stability in the region and beyond. With Jerusalem being the historically bustling cultural, social, political, and religious center of Palestine, the US decision threatens to permanently prejudge any future settlement, under which East Jerusalem is to be the capital of the Palestinian state. As a result of the move, tensions in the region are exacerbated and Palestinians witness an aggravation of their human rights situation.

Escalation in Violence

The recognition by the US has exacerbated the tensions in the region. As of 23 January 2018, 16 people have been killed across the Occupied Palestinian Territories (OPT), more than 2,900 have been injured, and more than 500 arrested. While Israeli occupation forces have a perennial presence in Palestinians' public and private spaces – with heavily armed soldiers occupying checkpoints, patrolling streets, 'guarding' illegal settlements, and searching homes and bodies for suspect objects – times of heightened tension see an escalation in Israeli military and police actions in the OPT.

The weeks since the US announcement have again been marked by a ruthless imposition of curfews, military raids and incursions in Palestinian neighborhoods, towns and villages in acts of collective punishment, which have resulted in injuries, killing, and detentions of civilians, including many children. New checkpoints and road closures have been installed, further obstructing the movement of Palestinians. On 24 December 2017, for instance, all entrances to Ramallah district were sealed. In response to a fatal attack on an Israeli settler near the illegal Israeli outpost of Havat Gilad on 9 January 2018, the Israeli army declared the area southwest of Nablus a military zone, and raided the Palestinian villages of Tell and Sarra. The erected blockades, sealed-off villages, and stringent inspections affect tens of thousands of innocent Palestinians.

Israel continues to violate the prohibition on collective punishment of an occupied people contained in article 33 of the Fourth Geneva Convention. The extensive deployment of Israeli troops in Palestinian population centers and neighborhoods entail systematic attacks on public and private property and infrastructure and systematic acts of intimidation, harassment, and violence. On 17 January 2018, Israeli forces declared Jenin closed military zone and imposed a large-scale operation including over 120 military vehicles, during which three homes belonging to the family of a "terror suspect" were demolished.

Unarmed Palestinian civilians face excessive use of force during demonstrations, which have increased in reaction to the US decision to formally recognize Jerusalem as Israel's capital, causing many injuries and deaths – including among minors. The use of rubber bullets, sponge bullets and tear gas, fired at protestors at close-range and above waist, has led to severe, often permanent injuries or death. In Gaza, fatalities and injuries have again increased due to Israeli air strikes and enforcement of access restrictions close to the border fence. Eight Palestinians were killed and at least 2,900 Palestinians, including at least 345 children, were injured in the OPT between 5 and 18 December alone. The lack of accountability of Israeli perpetrators shows tacit approval for killing and seriously injuring Palestinians.

A further worrying development is the Israeli government's proposed bill to facilitate the issuance of death penalties by judges for "terrorist activity", which has passed its preliminary reading in the Knesset on 3 January 2017 and is backed by the ruling coalition. The bill stipulates that death penalty is to be employed against anyone convicted of "terrorist activity" if a simple majority of two out of three judges in military court panels votes in favor. If passed, the bill would disproportionately target Palestinians, who fall victim to a discriminatory judicial system in which flawed rulings would then be fatal.

Illegal Settlement Expansion and Forced Displacement

The recognition by the US administration of Jerusalem as Israel's capital has emboldened the Israeli government to accelerate its settlement and annexationist policies. On 10 January 2018, Israel's Civil Administration's Higher Planning Council approved the construction of 1,122 new housing units in 20 settlements and outposts throughout the occupied West Bank. Additionally, it published tenders for 651 units on 11 January.

The new US administration's permissiveness vis-à-vis Israeli colonialist activities had already resulted in increased settlement consolidation in the year 2017: 6,742 construction units for settlements were reportedly approved, the highest number since 2013. The planning and implementation of a total of around 8,000 settlements units were advanced in the first half of 2017 alone, including over 3,000 recommended for "immediate construction". By contrast, 2,629 units were approved in 2016. Over the years, the development shown in 2017 will facilitate the move of over 30,000 Israeli settlers to the occupied West Bank, including East Jerusalem.1 To date, 600,000 settlers reside in the occupied West Bank and East Jerusalem. Around 208,000 settlers live on either partially or entirely private Palestinian property in East Jerusalem, with around 2,000 settlers residing in the midst of Palestinian neighborhoods under military protection.

On 31 December 2017, Israel's governing Likud party unanimously approved a draft resolution demanding the formal annexation of large parts of the occupied West Bank, in which unlimited construction of settlements would be advanced. Illegal settlements would move under Israeli sovereignty. This coincides with the proposed "Greater Jerusalem Bill", which aims to annex 19 illegal settlements, including the major settlements of Maale Adumim, Givat Zeev and Gush Etzion, to the Israeli-defined municipal boundaries of Jerusalem. This plan is in line with Israel's persistent legislative, judicative, and administrative steps to illegally change the character, status, and demographic composition of the Jerusalem to, *inter alia*, ensure a Jewish majority in the city. Accordingly, the bill would create "independent municipalities" for Palestinian neighborhoods cut off from Jerusalem by the Separation Wall.

Residency Rights in and Access to East Jerusalem

Demographic engineering in favor of a Jewish majority in Jerusalem, which amounts to ethnic cleansing, is enshrined in Israeli law and practice, in an effort to create facts on the ground to forestall final status agreements based on international law – which delineate East Jerusalem as the capital of an independent Palestinian State. Palestinian inhabitants of Jerusalem are allocated the status of "permanent residents", which does not entail a constitutional right to residency but is conditioned upon physical presence in Jerusalem (permanent domicile, "center of life") that must be constantly proven in interaction with the Israeli Interior Minister. It is therefore subject to expiration and revocation at any point in time on the basis of several discriminatory laws2. A stay abroad of over seven years or residence abroad may also imply the loss of the right to reside in Jerusalem. Almost 15,000 Palestinians have had their Jerusalem IDs revoked since 1967.

Jerusalem residency is transferred neither to children nor to spouses. Instead, Palestinians need to submit requests for family unification. These entail a long-winded and expensive bureaucratic process, at whose end the request may be denied. Moving to a neighboring West Bank village, results in the loss of residency rights for Palestinian East Jerusalemites.

The Separation Wall – constructed in a way to separate eight Palestinian Jerusalemite neighborhoods and to displace about a quarter of East Jerusalemite Palestinians at the West Bank side of the barrier, while partitioning villages, encircling towns, and splitting families apart – served as another strategy in the "de-Palestinization" of Jerusalem.

1 https://eeas.europa.eu/sites/eeas/files/eu_report_on_israeli_settlements_in_the_occupied_west_bank_including_east_jerusalem_january_-_june_2017.pdf

2 Such laws include the Passports Law (1952), the Entry into Israel Law (1952), the Nationality Law (1952), and the Entry into Israel Regulations (1974).

Those Palestinians cut off by the Wall lost their Jerusalem identity documents or risked losing them if they could not prove Jerusalem as their center of life.

Israel's discriminatory planning restricts the land zoned for Palestinians in East Jerusalem to only 13 percent, most of which is already built-up. Forced to construct homes without the hardly obtainable building permits, over 100,000 Palestinian residents are at constant risk of forced displacement. Eviction and forcible displacement of Palestinians has escalated in 2017 and is likely to increase even further in 2018. During the past year, Israeli authorities demolished 142 structures in East Jerusalem, particularly in Jabal Mukabbir, Beit Hanina, al Isawiya and Silwan, under the pretext of lacking building permits. As a result, 233 people were displaced, including 133 children, and 631 people were negatively affected3.

The constant threat of land seizure, home demolition, and eviction creates a coercive environment, which is exacerbated by Israel's discriminatory provision of basic services and resources to the Palestinian population of the City. Although Palestinians pay taxes, the Jerusalem municipality's budget allocation is highly discriminatory. Palestinian neighborhoods in East Jerusalem are neglected by the municipality, with basic services such as education, healthcare, waste removal, running water, and road maintenance being extremely limited. Those Palestinian neighborhoods cut off from Jerusalem by the Wall, such as Kufr Aqab and Shuafat refugee camp, suffer from almost complete neglect – with the population being subjected to water shortage, serious health hazards due to the burning of rubbish, and debilitated infrastructure.

Palestinians' access to their historically bustling center is today extremely restricted. Israel has entrenched an intricate system of permits, checkpoints, and the Separation Wall to cement control over the City and further isolate Jerusalem from Palestine. Even those Palestinians in possession of the required IDs but cut off by the Wall need to take circuitous routes, circumvent physical barriers, and pass through congested checkpoints (whilst settlers can access bypass roads). Some Palestinians may be able to see the Old City of Jerusalem from their windows. Yet, if they are in possession of the required permit, they are forced to endure a trip of two hours to reach it.

On 2 January 2018, Israel passed a new bill determining that a two-third majority is required in the Knesset before Israel can relinquish control over any part of Jerusalem to a foreign entity. The intent is to impede any future relinquishment of illegally annexed East Jerusalem to the Palestinian Authority. The bill furthermore provides for the removal of the Palestinian neighborhoods of Kufr Aqab and the Shuafat refugee camp from the jurisdiction of the Jerusalem municipality.

Conclusion and Recommendations

Whereas the US decision to officially recognize Jerusalem as capital of Israel can be viewed as attempt to legitimize Israeli control over the remaining Palestinian territory and to undermine Palestinians' legitimate historic, national, and legal rights in Jerusalem, it does not change the internationally recognized status of Jerusalem, according to which East Jerusalem is illegally occupied and is the future capital of Palestine. Given that the US move further contravenes international law and further deprives Palestinians of their inalienable rights, the signatories to the statement reaffirm in the strongest manner that the UN, its relevant bodies, and UN Members States must take all necessary measures to:

- Pressure the US to rescind its decision to move its embassy and recognize Jerusalem as capital of Israel;
- Finally bring an end to the prolonged occupation of Palestine and fulfill Palestinians' right to national self-determination, which involves the end of all settlement activity and the blockade on Gaza;
- Ensure the immediate end to all Israeli policies and practices aimed at altering the character, status, and demography of occupied Palestine, particularly East Jerusalem;

3 https://www.ochaopt.org/content/high-numbers-demolitions-ongoing-threats-demolition-palestinian-residents-east-jerusalem

- Urge Israel to cease its discriminatory planning, development, and land system in occupied Palestine and within Israel and to rescind all policies and practices resulting in the forced eviction and transfer of Palestinians, including demolitions, confiscations, and the creation of a coercive environment;
- Demand Israel to comply fully with the provisions of the advisory opinion of the International Court of Justice and thus to dismantle the Separation Wall.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, The Brussells Tribunal, Euro-Mediterranean Human Rights Monitor, Association of Humanitarian Lawyers (AHL), The Iraqi Commission for Human Rights (ICHR), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, International Anti-Occupation Network (IAON), NGO(s) without consultative status, also share the views expressed in this statement.